

Message Text

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ACTION STR-05

INFO OCT-01 STRE-00 ISO-00 IO-13 AF-10 ARA-10 EA-10
EUR-12 NEA-10 OIC-02 FEA-01 AGRE-00 CEA-01
CIAE-00 COME-00 DODE-00 EB-08 FRB-03 H-01 INR-07
INT-05 L-03 LAB-04 NSAE-00 NSC-05 PA-01 AID-05
SS-15 ITC-01 TRSE-00 USIA-06 PRS-01 SP-02 OMB-01
(ISO) W

-----057774 102332Z /42

P 101657Z NOV 77

FM USMISSION GENEVA

TO SECSTATE WASHDC PRIORITY 2934

INFO AMEMBASSY BRUSSELS

AMEMBASSY HELSINKI

AMEMBASSY OTTAWA

AMEMBASSY REYKJAVIK

AMEMBASSY STOCKHOLM

AMEMBASSY OSLO

AMEMBASSY TOKYO

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USMTN USEEC

STR FOR ACTION

STR PASS CODEL

E.O. 11652: N/A

TAGS: MTN, ETRD

SUBJECT: MTN GOVERNMENT PROCUREMENT SUBGROUP

REF: (A) GENEVA 10084

1. SUMMARY: MTN GOVERNMENT PROCUREMENT SUBGROUP
MEETING NOVEMBER 7 AND 9 PROGRESSED SMOOTHLY AND
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AGREEMENT WAS REACHED TO COMBINE VARIOUS PROPOSALS
INTO ONE DRAFT CODE TO BE FOCUS OF FUTURE SUBGROUP
WORK. EC SURPRISINGLY RECEPTIVE TO CRITICISM OF
THEIR PROPOSAL AND INDICATED CONSIDERABLE FLEXIBILITY
TOWARDS COMBINING TEXTS TO RESOLVE DIFFERENCES.
DEVELOPING COUNTRY DELS EXPRESSED CONSIDERABLE INTEREST
IN SPECIAL AND DIFFERENTIAL TREATMENT (S&D) AND

INDICATED THEY MAY SUBMIT PAPERS ON S AND D AND OTHER TOPICS TO THE SECRETARIAT. THE SUBGROUP INSTRUCTED THE SECRETARIAT TO COMBINE ALL SUBMISSIONS RECEIVED BEFORE THE END OF NOVEMBER INTO A DRAFT CODE WHICH WOULD BE DISTRIBUTED BY DECEMBER 15. END SUMMARY.

2. U.S. DEL (NEWKIRK) OPENED MEETING WITH STATEMENT CALLING FOR DEVELOPMENT OF DRAFT NEGOTIATING DOCUMENT BY DECEMBER 15. HE STRESSED THAT NEGOTIATIONS WOULD NOT GO BEYOND THE DISCUSSION STAGE UNTIL SUCH A DOCUMENT EMERGES.

3. NORDICS INTRODUCED PLURILATERAL DRAFT PROPOSAL (MTN/NTM/W/121), NOTING THAT IT DOES NOT COVER ALL ELEMENTS OF A POTENTIAL CODE BUT THAT IT COULD FORM THE BASIS OF A DRAFT NEGOTIATING DOCUMENT. MOST DC DELS ENDORSED COMMON DRAFT SECTION ON NATIONAL TREATMENT AND NON-DISCRIMINATION. JAPANESE DEL OBJECTED TO PARA 3 ON THE GROUNDS IT WOULD ALLOW SOME SIGNATORIES TO DENY PROCUREMENT CONCESSIONS TO COUNTRIES OUTSIDE OF CUSTOMS UNIONS OR FREE TRADE AREAS.

4. INDIAN AND JAMAICAN DELS STATED NATIONAL TREATMENT/NON-DISCRIMINATION SECTION SHOULD CONTAIN A PARAGRAPH ON S AND D WHICH WOULD ALLOW DIFFERENTIAL TREATMENT FOR LDC'S, INCLUDING USE OF DOMESTIC PRE-LIMITED OFFICIAL USE

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FERENCES, INTRA-LDC PREFERENCES, AND PREFERENCES BY DC'S FOR LDC SUPPLIERS. ISRAELI DEL ASKED WHETHER PARA 2 WOULD ALLOW USE OF BALANCE OF PAYMENTS RESTRICTIONS. NORDICS RESPONDED THAT BOP EXCEPTIONS HAD NOT BEEN CONSIDERED BY DRAFTERS BUT THAT IF THE CODE FORMS A PART OF GATT, THEN BOP EXCEPTIONS TO THE NATIONAL TREATMENT OBLIGATION MIGHT BE ACCEPTABLE IF APPROVED BY THE GATT BOP COMMITTEE.

5. INDIAN DEL DECLARED THAT SECTION REGARDING TECHNICAL SPECIFICATIONS SHOULD REQUIRE THE USE OF INTERNATIONAL STANDARDS, STATING THAT USE OF NATIONAL STANDARDS COULD DISADVANTAGE LDC'S. U.S. DEL NOTED THAT VARIOUS MTN CODES ARE NOT BEING NEGOTIATED IN ISOLATION AND THAT THE STANDARDS CODE WILL BE USEFUL IN UNDERSTANDING GOVERNMENT PROCUREMENT OBLIGATIONS CONCERNING TECHNICAL SPECIFICATIONS.

6. SUBGROUP DISCUSSION ON THE TENDERING PROCEDURES PORTION OF THE PLURILATERAL DRAFT WAS UNEVENTFUL, WITH DELEGATIONS GENERALLY RESTATING ESTABLISHED POSITIONS. U.S. DEL RECOMMENDED ELIMINATION OF PARA 5 CONCERNING

PUBLICATION OF PERMANENT BIDDERS' LISTS AS SUBSTITUTE
FOR EX-ANTE PUBLICITY AND NOTED THE NEED FOR ADDITIONAL
SPECIFIC PROVISIONS ON EX-POST INFORMATION.

7. IN BRIEF INTERVENTION TO EXPLAIN REASON FOR
BRACKETS ON PARA 12 OF CONSENSUS DRAFT, SWISS DEL
CITED THEIR THINKING ON BEST MEANS TO PROCEED IN
SUBSTANTIVE SCOPE AND COVERAGE NEGOTIATIONS. HE
EXPRESSED BELIEF THAT AN ATTEMPT TO BALANCE PARTICULAR
SECTORS AMONG VARIOUS COUNTRIES BY NEGOTIATING A
POSITIVE LIST OF COVERAGE MAY BECOME UNWIELDY
AND COULD LEAD TO POSITIVE EXCEPTIONS TO ARTICLE III
OF GATT. SWISS CONSIDER THAT IT MAY BE MORE PRACTICAL
TO NEGOTIATE EXCEPTIONS TO CODE COVERAGE. DELS TOOK
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NOTE OF SWISS INTERVENTION BUT MADE NO RESPONSE.

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EUR-12 NEA-10 OIC-02 FEA-01 AGRE-00 CEA-01
CIAE-00 COME-00 DODE-00 EB-08 FRB-03 H-01 INR-07
INT-05 L-03 LAB-04 NSAE-00 NSC-05 PA-01 AID-05
SS-15 ITC-01 TRSE-00 USIA-06 PRS-01 SP-02 OMB-01
(ISO) W

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P 101657Z NOV 77

FM USMISSION GENEVA

TO SECSTATE WASHDC PRIORITY 2935

INFO AMEMBASSY BRUSSELS

AMEMBASSY HELSINKI

AMEMBASSY OTTAWA

AMEMBASSY REYKJAVIK

AMEMBASSY STOCKHOLM

AMEMBASSY OSLO

AMEMBASSY TOKYO

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8. IN INTRODUCING EC PROPOSAL (MTN/NTM/W/117) EC DEL (DERISBOURG) EMPHASIZED HIS DELEGATION'S FLEXIBILITY REGARDING BOTH THE SUBSTANCE AND FORM OF THEIR PROPOSALS. REGARDING S AND D, THE LDC'S LED BY INDIA, JAMAICA, AND NIGERIA CRITICIZED THE EC PROPOSAL AS FALLING SHORT OF THEIR DESIRES, BUT EXPRESSED APPRECIATION THAT THE EC REALIZED THE NEED FOR S AND D SECTION IN A COMMON DRAFT. SOME LDC'S COMMENTED THAT THE TIME LIMITS SUGGESTED IN THE EC DRAFT WERE TOO SHORT AND OTHERS QUESTIONED WHETHER THE LANGUAGE REQUIREMENTS (E.G., PUBLISHING SUMMARIES OF BID OFFERS IN A GATT LANGUAGE) WOULD BENEFIT DC'S MORE THAN LDC'S. JAPANESE DEL (TERADA) STRONGLY CRITICIZED THE EC'S LANGUAGE PROVISIONS. INDIAN DEL
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(HEMRAJANI) STATED THAT PART A OF THE EC'S PROPOSAL (SPECIAL PROVISIONS FOR LLDC'S) IS ENTIRELY INADEQUATE, AND NIGERIA (ADEWAKUN) RECOMMENDED THAT DC'S BE REQUIRED TO SET ASIDE SOME CONTRACTS FOR LDC'S AND SOME FOR LLDC'S. INDIAN DEL SUPPORTED THE DECEMBER 15 TARGET DATE FOR TABLING A DRAFT CODE BUT EMPHASIZED THAT THE CODE MUST HAVE SPECIFIC S AND D PROVISIONS AT THAT TIME. SEVERAL DC'S URGED LDC'S TO TABLE SPECIFIC S AND D PROPOSALS.

9. EC ADVANCED ITS PROPOSAL ON TRANSPARENCY AS A STEP FORWARD IN ENSURING HONEST FUNCTIONING OF PROCUREMENT SYSTEMS. U.S. DEL STATED THAT EC PROPOSAL ON TRANSPARENCY (PAGE 2, PARA 5 OF W/117) WAS "WOEFULLY INADEQUATE" SINCE THE SUGGESTED REPORT ON THE OPENING OF BIDS IS NOT REQUIRED TO CONTAIN SPECIFIC INFORMATION OR TO BE DISCLOSED TO SOURCES OUTSIDE THE GOVERNMENT OF THE PURCHASING ENTITY. REGARDING THE EC'S PROPOSAL ON BILATERAL SETTLEMENT OF DISPUTES, SEVERAL DELEGATIONS (NORDICS, JAPAN, SWITZERLAND) SUPPORTED THE EC'S DESIRE TO SETTLE AS MANY COMPLAINTS AS POSSIBLE BILATERALLY AND TO HAVE EXPLICIT CODE PROVISIONS COVERING THE BILATERAL PHASE OF DISPUTES. CANADA AGREED THAT THE BILATERAL PHASE IS IMPORTANT BUT EMPHASIZED THAT DISPUTES MUST BE SETTLED EQUITABLY. CANADA BELIEVES THE EC PROPOSAL FALLS SHORT OF ENSURING FAIR TREATMENT BUT THAT IT COULD BE COMBINED WITH THE CANADIAN DISPUTE SETTLEMENT PROPOSAL IN A DRAFT CODE.

10. CANADIAN DEL DESCRIBED ITS PROPOSAL ON INTERNATIONAL

SURVEILLANCE/DISPUTE SETTLEMENT (MTN/NTM/W/118) AS AN
ATTEMPT TO TAKE THE GATT SYSTEM AS IT HAS EVOLVED AND
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IMPROVE UPON IT. THE ONLY CHANGES FROM THE PRESENT
GATT ARTICLE XXII AND XXIII PROCEDURES IS THE ADDITION
OF TIME LIMITS AND REQUIREMENTS ON THE COMPOSITION OF
PANELS. SEVERAL DELS CRITICIZED THE CANADIAN PROPOSAL
AS INADEQUATE BECAUSE IT OMITTS BILATERAL DISPUTE
SETTLEMENT PROCEDURES WHICH MOST DELS FELT IS THE MOST
DESIRABLE METHOD FOR DEALING WITH SUPPLIER COMPLAINTS.
THE EC, NORDIC AND JAMAICAN DELS EXPRESSED OPPOSITION
TO THE PANEL'S AUTHORITY TO RECOMMEND USE OF SANCTIONS
AND QUERIED CANADIAN DEL ABOUT THE EXTENT OF THE
PANEL'S POWERS. NIGERIAN DEL OPINED THAT ANY DISPUTE
SETTLEMENT MECHANISM AND MONITORING BODY SHOULD REFLECT
LDC INTERESTS.

11. U.S. DEL NOTED THAT FEW LDC'S HAD REPLIED TO
SECRETARIAT REQUEST FOR INFORMATION ON THEIR PROCUREMENT
SYSTEMS. INDIAN DEL PROMISED TO SUBMIT INDIA'S REPLY
SOON. IN ACCORDANCE WITH AGREEMENT REACHED IN INFORMAL
PLURILATERAL AND IN 7 PLUS 7 MEETING REGARDING FUTURE
WORK OF THE SUBGROUP (REFTEL) CANADA PROPOSED DELS
CONTINUE TO MEET INFORMALLY TO COMBINE PROPOSALS
INTO A COMMON DRAFT CODE. ADDITIONAL PROVISIONS ON
SURVEILLANCE, SCOPE AND COVERAGE, DISPUTE SETTLEMENT,
EX-POST INFORMATION, AND S AND D WOULD BE ADDED TO
THE COMMON DRAFT. THE SUBGROUP WOULD POSTPONE WORK ON
FINAL PROVISIONS, EXCEPTIONS AND DEROGATIONS, THRESHOLD,
ETC. UNTIL AFTER COMMON NEGOTIATING DOCUMENT HAS BEEN
ACHIEVED. INDIA SUGGESTED THAT LDC DELS BE INCLUDED IN
INFORMAL MEETINGS SO CODE WORK WILL PROGRESS EXPEDITIOUSLY.
THERE WAS GENERAL ACCEPTANCE OF U.S. PROPOSAL THAT DELS
SUBMIT ADDITIONAL PAPERS TO THE SECRETARIAT BY THE END
OF NOVEMBER TO ENABLE SECRETARIAT TO CONSULT WITH DELS
AND PREPARE A COMMON DRAFT CODE FOR DISTRIBUTION BY
DECEMBER 15. GROUP AGREED TO FOCUS ON THIS DRAFT AT
THE NEXT MEETING.

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ACTION STR-05

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EUR-12 NEA-10 FEA-01 AGRE-00 CEA-01 CIAE-00
COME-00 DODE-00 EB-08 FRB-03 H-01 INR-07 INT-05
L-03 LAB-04 NSAE-00 NSC-05 PA-01 AID-05 SS-15
ITC-01 TRSE-00 USIA-06 PRS-01 SP-02 OMB-01 OIC-02
(ISO)W

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P 101657Z NOV 77

FM USMISSION GENEVA

TO SECSTATE WASHDC PRIORITY 2936

INFO AMEMBASSY BRUSSELS

AMEMBASSY HELSINKI

AMEMBASSY OTTAWA

AMEMBASSY REYKJAVIK

AMEMBASSY STOCKHOLM

AMEMBASSY OSLO

AMEMBASSY TOKYO

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12. DRAFTED BY NTM TEAM. CULBERT

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01-Jan-1994 12:00:00 am
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
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Control Number: n/a
Copy: SINGLE
Sent Date: 10-Nov-1977 12:00:00 am
Decaption Date: 01-Jan-1960 12:00:00 am
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 22 May 2009
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
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Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Expiration:
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Format: TEL
From: GENEVA
Handling Restrictions: n/a
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Legacy Key: link1977/newtext/t19771175/aaaacmcj.tel
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Litigation History:
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Message ID: 3ebfa91d-c288-dd11-92da-001cc4696bcc
Office: ACTION STR
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
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Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 77 GENEVA 10084
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
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Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 644625
Secure: OPEN
Status: NATIVE
Subject: MTN GOVERNMENT PROCUREMENT SUBGROUP
TAGS: ETRD, MTN
To: STATE
Type: TE
vdkgvwkey: odhc://SAS/SAS.dbo.SAS_Docs/3ebfa91d-c288-dd11-92da-001cc4696bcc
Review Markings:
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